

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on April 18, 2016.

MINUTES OF THE WYOMING BOARD OF ZONING APPEALS  
HELD AT WYOMING CITY HALL

March 7, 2016

The meeting was called to order at 1:30 P.M. by Chairman VanderSluis.

Members present:     Beduhn             Lomonaco         Meeter  
                                 Palmer             Postema             VanderSluis

Member absent:         Buist

Other official present:         Tim Cochran, City Planner  
   Dave Rupert, Inspections Supervisor

A motion was made by Postema, and seconded by Beduhn to approve the minutes of the February 1, 2016 Board of Zoning Appeals meeting.

Motion carried:         7 Yeas             0 Nays

PUBLIC HEARING:

Appeal #V160003             P.P. #41-17-31-101-007  
Stacy Brown-O'Dell  
5387 Canal Ave. S.W.  
Zoned ER

The application for a variance from the City of Wyoming Zoning Code was read by Secretary Lomonaco as follows:

Zoning Code Section 90-41 requires properties to abut public street right-of-ways. The petitioner proposed to divide the 7.19 acre property into two parcels, with a rear parcel of 2.45 acres without street frontage. Access would be provided through an easement. The requested variance would allow a parcel to be created that does not abut a public right-of-way.

Chairman VanderSluis opened the public hearing.

Pat O'Dell was present to represent the property owner James Brown. The owner desires to keep the house in the family. The daughter would purchase the house from Mr. Brown, and with the lot split, Mr. Brown would build a second house on the new lot. He proposes to construct a 1,200 – 1,500 square foot house. He wants to keep the property in the family.

There being no further remarks, Chairman VanderSluis closed the public hearing.

Cochran said staff supported the variance request. This is a unique shaped lot. The majority of the property is located in the rear of the lot. Both proposed lots would exceed the two acre minimum required by Code. In this area, it is not unusual to have more than one property serviced by a private drive. If the variance was granted, the drive should be upgraded to allow use by fire truck, and there would have to be a turn around on the property per Fire Department requirements. Staff's Finding of Facts includes this condition.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because the petitioner has a single family home on a large 7.19 acre estate parcel. They desire to split the property into two parcels of 4.74 acres and 2.45 acres to allow for a second residence to be constructed on the proposed rear parcel. The minimum parcel size for the ER Estate Residential District is two acres. The proposed rear parcel does not have frontage on Canal Avenue and would be served by a recorded access easement through the front parcel. The property has approximately 250 feet of frontage along Canal Avenue with a minimum 150 feet of lot width required. Because the rear parcel would not have street frontage, a variance from the Board of Zoning appeals is required. The property is exceptional because it is unusually large within this district and is underutilized with one residence. The petitioner has conducted a wetland determination (see attached) for the property which substantiates a viable building site served by a well and septic field on the proposed rear parcel. In addition, they have verified with the Fire Department the required alignment and upgrade necessary to the driveway to service two homes. Approval of the requested variance is conditioned upon provision to the Building Inspections Department of a recorded perpetual access easement serving the rear parcel and compliance with the Fire Department requirements for enhancement of the driveway serving the two parcels.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the authorization of the requested variance allows for a reasonable use of this large property. The variance provides for the preservation and enjoyment of substantial property rights.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the authorization of the variance will have no impact on adjacent land or on traffic. The two proposed parcels will be of similar size to many of the nearby parcels.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the proposed additional home site is unique due to the size of the property and the limited street frontage. Such a situation does not make practicable the formulation of a general regulation.

A motion was made by Palmer and seconded by Lomonaco that the request for a variance in application no. V160003 be granted, accepting staff's Finding of Facts with the required upgrade of the driveway per the Fire Department and the perpetual easement serving the rear parcel.

Motion carried:           6 Yeas           0 Nays (Resolution #5599)

PUBLIC HEARING:

Appeal #V160004                   P.P. #41-17-35-258-001  
Gezon High LLC  
1045 Gezon Parkway  
Zoned RO1

The application requesting a variance from the City of Wyoming Zoning Code was read by Secretary Lomonaco as follows:

Zoning Code Section 90-893 Nonresidential Districts requires properties in the B-3 Planned Business District to be a minimum of 5 acres. The petitioner proposed to divide the 6 acre property into two parcels of 2.7 acres and 3.3 acres. The requested variance would allow two parcels to be established that are 2.3 acres and 1.7 acres below the minimum 5 acre B-3 District requirement.

Chairman VanderSluis opened the public hearing.

Brian Sikma, Gezon High LLC., 5500 Cascade Rd. SE., Grand Rapids is one of the partners in the project. They had purchased six acres from the City of Wyoming when Gezon Parkway was relocated. The building to the north of the property was built at that time for Optimal Solutions. The owners of Optimal Solutions lived in Wyoming, and wanted a location in Wyoming for their business. The City did not want the property to be zoned B-1 or B-2 because that would have allowed smaller lots with smaller buildings. Gezon High LLC built the first building on the east side of property as a condominium development. This gave the City the large building staff envisioned, and as such met the B-3 zoning. It took longer than anticipated to find businesses to fill the building, but now the building is 100% occupied. The property was held as one parcel with one owner. Now Gezon High LLC is getting ready to develop the vacant area of the property. It may be a speculative venture, but the development will still achieve the City's intent of having two large buildings at this location. The development may need separate financing, which is why they are requesting the lot split.

Connie Westgate, 5513 Palmer Hills; Fred Rehm, 1174 Angels Trace; and a resident from 5500 Palmer Hills all stated concerns regarding traffic from any proposed development.

There being no further remarks, Chairman VanderSluis closed the public hearing.

Cochran affirmed Mr. Sikma's explanation regarding the land development history. The intent of the Gezon Parkway was to open the area for economic development. There is no site plan for the undeveloped portion of the property currently. The traffic through this area is closely monitored by the City's Engineering Department. There are standards they must follow in order to show the demand for a traffic light has been created. There are certain design thresholds to which they must comply. As to the split request, the land development will still meet the City's vision for the site. There will still be a larger building. This area is

somewhat removed from the commercially zoned areas, which makes it harder to develop. That makes this location unusual.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because the petitioner has constructed a 26,000 retail center on the eastern half of this 6 acre property. They desire to construct a companion retail center of approximately 20,000 square feet on the balance of the property. They request a variance to split the overall property into two parcels of 2.7 acres and 3.3 acres. A minimum of 5 acres is required for properties in this B-3 Planned Business district. The overall site, including the RO-1 Office zoned and developed property to the rear, was zoned, master planned, and constructed to accommodate two commercial centers and the office building. Shared access easements are in place for all properties to Gezon Parkway and Palmer Hills Drive. Due to this comprehensive development plan, the property is exceptional in its intended use that distinguishes it from other properties in this B-3 zoning district. The authorizing of the variance will not result in any visual change to the planned development of the overall site.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the authorization of the requested variance allows for a reasonable use of this large property. The variance provides for the preservation and enjoyment of substantial property rights.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the authorization of the variance will have no impact on adjacent land or on traffic. The overall property is 2/3's developed, with the undeveloped area master planned for a retail center. Access to all properties has been coordinated.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the proposed parcel split allows the developer to simplify financing for the second commercial phase while maintaining the integrity of the overall master planning for the site. Such a situation does not make practicable the formulation of a general regulation.

A motion was made by Lomonaco and seconded by Postema that the request for a variance in application no. V160004 be granted, accepting staff's Finding of Facts.

Beduhn had a question regarding the building to the north of this parcel. Cochran explained that office building was on a separate lot, and the zoning was RO-1 for office use because of its proximity to residentially zoned property.

Motion carried:           6 Yeas           0 Nays (Resolution #5600)

PUBLIC HEARING:

Appeal #V160005

P.P. #41-17-14-226-018

Jay Farlin

835 Canterbury St. S.W.  
Zoned R-2

The application requesting variances from the City of Wyoming Zoning Code was read by Secretary Lomonaco as follows:

Zoning Code Section 90-891 Residential Districts requires residences in the R-2 Single Family District to have a rear yard setback of 35 feet, a side yard setback of 7 feet, and maximum lot coverage of 35%. In addition, Zoning Code Section 90-45 (5) requires accessory buildings to be a minimum of 10 feet from the residence. The petitioner constructed an addition and decking to the residence without permits. The addition and decking resulted in a rear yard setback of 28 feet, a sideyard setback of zero, and lot coverage of 39%. Also, the addition is three feet from the garage. The requested variances would approve a reduced rear yard setback of 28 feet (35 feet required), approve a side yard setback of zero feet, approve a lot coverage of 39% and a separation of 3 feet from the residence to the garage.

Chairman VanderSluis opened the public hearing.

Randy Burri, 2415 Rhodora Dr., Zeeland, identified himself as the builder. He suggested the rear yard setback request would be reasonable because the property is adjacent to commercially zoned property. He explained the side deck had been built to be part of a handicap ramp system. The landing in the front yard was higher, and a ramp system in that area would be more complicated to achieve. He had suggested to the owner to incorporate the ramp off the rear deck. He thought modifying the enclosed garage, to a partial garage/carport would mitigate the distance from the house wall to the garage wall thereby saving the roof system making the area a kind of covered porch.

Cochran noted Dave Rupert, Inspections Supervisor was present to answer questions, if needed regarding the Building Code. He reiterated all the current work had been done without permits. This meant the City had not reviewed the project before the work was started. The property abuts single family residences to the east and west, with the Rogers Plaza parking lot to the north. Staff was most concerned with the separation between the two stall garage and the addition as this is a safety issue. The petitioner had offered, if necessary, to remove the walls of one stall of the garage to provide the required separation. Staff historically includes any open building with a roof and open decking as part of the overall square footage of combined buildings on a property. Staff recommends denial of the accessory building setback variance, which would probably result in removal of one of the garage stalls, and the roof over that section. The decking in the side yard is raised and overlooks the adjoining property. Staff recommends denial of the side yard variance. This decking should be removed, leaving the building wall with the required 7 foot side yard. The removal of the side yard decking, and one garage stall, would bring the lot coverage to below the required 35%. Staff supported the variance for the rear decking as it is oriented to a parking lot and has no direct impact on that property. This is the exceptional condition applicable to the property. If the rear decking remains, the four season room and decking may need to be modified to incorporate a desired ramp as described in the petitioner's letter.

Plans, permits and inspections would be required for all unauthorized work and any subsequent modifications. Staff recommended Finding of Facts were as follows:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because the rear decking is oriented to a parking lot and has no direct impact on that property.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the authorization of one of the four requested variances (rear yard setback) allows the property owner to maintain much of unpermitted construction. These provide for the reasonable expansion and enhancement of this property. The variance provides for the preservation and enjoyment of substantial property rights.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the authorization of the one variance (rear yard setback) will have no impact on adjacent land or on traffic. The other three requested variances (accessory building setback, side yard setback and lot coverage) would have been of detriment to adjoining properties. The overall investment on the property will be of benefit to nearby properties.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the requested rear yard setback exceedance is not general or recurrent in nature. Such a situation does not make practicable the formulation of a general regulation.

There being no further remarks, Chairman VanderSluis closed the public hearing.

A motion was made by Lomonaco and seconded by Palmer that the request for a variance in application no. V160005 be modified, accepting staff's Finding of Facts. The modification would grant the 28 foot rear yard setback, deny the zero foot side yard setback, and require the garage to be modified as to meet the ten foot separation from the residence, and remove the deck on the side, and modify the garage as not to exceed the 35% lot coverage maximum allowance.

Mr. Burri asked if he would be able to modify the garage design.

Rupert said that staff would review any proposed design to ensure there was a ten foot separation between the house and garage, and that the resulting lot coverage did not exceed the 35% maximum allowance.

Motion carried:           6 Yeas           0 Nays (Resolution #5601)

PUBLIC HEARING:

Appeal #V160006                   P.P. #41-17-36-177-012  
Diesel Injection Service, LLC  
440 54th St. S.W.

## Zoned I-2

The application requesting a variance from the City of Wyoming Zoning Code was read by Secretary Lomonaco as follows:

Zoning Code Section 90-893 Nonresidential Districts requires properties in the I-2 General Industrial District to have a minimum front yard setback of 25 feet. The petitioner proposed to construct a 316 square foot addition to the front of the existing building that would have a 17 foot setback. The addition would align with the existing front building wall which has a nonconforming front yard setback of 17 feet. The requested variance would allow a reduced front yard setback of 8 feet from the required 25 feet for the proposed addition.

Chairman VanderSluis opened the public hearing.

David Stevens, 9390 36<sup>th</sup> St. S.W., Diesel Injection Service, said they were out of room at the current location. They purchased this property to combine the two parcels, and expand their office space.

Gordon Sable, 8975 Conservancy, Ada, said the addition design would make the building front look uniform. Currently one building has a pitched roof and the other has a flat roof. While from the street it looks like the one building, it really is two buildings on two parcels. There will be a new façade and landscaping will be added.

There being no further remarks, Chairman VanderSluis closed the public hearing.

Cochran believes the proposed changes will be an improvement. There is no change to the use. The standards of the code will be met. Staff supported the variance request. The staff's recommended Findings of Facts are as follows:

A motion was made by Meeter and seconded by Postema that the request for a variance in application no. V160006 be granted, accepting staff's Finding of Facts.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because the petitioner has an existing Industrial use which is connected and located on two adjoining properties. The eastern portion of the building has a nonconforming front yard setback of 17 feet, which is 8 feet below the required 25 foot setback of this I-2 General Industrial district. The petitioner proposed to construct a modest 316 square foot addition to the front of the west side of the building as part of the overall improvement to the appearance and function. The addition would align with the existing 17 foot building setback. A landscaped greenbelt will be installed, replacing pavement along 54<sup>th</sup> Street. The entire front building façade will also be improved. The alignment of the small building addition with the existing building wall is an exceptional circumstance which is generally not applicable to other properties in this I-2 district.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the authorization of the requested variance allows for the reasonable

expansion and enhancement of this property. The variance provides for the preservation and enjoyment of substantial property rights.

3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the authorization of the variance will have no impact on adjacent land or on traffic. The overall enhancement of the property will be of benefit to nearby properties.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the modest expansion of the building conforms with the overall building front yard setback. Such a situation does not make practicable the formulation of a general regulation.

Motion carried:            6 Yeas            0 Nays (Resolution #5602)

\*\*\*\*\*

There were no public comments at the meeting.

There were no new business items to be discussed.

---

Canda Lomonaco  
Secretary

CL:cb